



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

W. Tayloe Murphy, Jr.
Secretary of Natural Resources

West Central Regional Office
3019 Peters Creek Road, Roanoke, Virginia 24019
Telephone (540) 562-6700, Fax (540) 562-6725
www.deq.state.va.us

Robert G. Burnley
Director

Steven A. Dietrich
Regional Director

STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION ORDER BY CONSENT

ISSUED TO MEADWESTVACO CORPORATION- SPECIALTY CHEMICALS DIVISION

Registration No. 20329

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code § 10.1-1309 and 10.1-1316 between the State Air Pollution Control Board and MeadWestvaco Corporation, for the purpose of resolving certain violations of environmental regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Va. Code" means the Code of Virginia (1950), as amended.
2. "Board" means the State Air Pollution Control Board, a permanent collegial body of the Commonwealth of Virginia as described in Va. Code §§ 10.1-1301 and 10.1-1184.
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
4. "Director" means the Director of the Department of Environmental Quality.
5. "Order" means this document, also known as a Consent Order.
6. "MeadWestvaco" means MeadWestvaco Corporation-Specialty Chemicals Division Carbon Department, certified to do business in Virginia and its affiliates, partners, subsidiaries, and parents.

7. "Facility" means the Carbon Plant located in Covington, Virginia.
8. "WCRO" means the West Central Regional Office of DEQ, located in Roanoke, Virginia.
9. "Permit" means the amended permit for the MeadWestvaco extruded carbon production facility located in Covington, Virginia with an effective date of June 26, 2002.
10. "Title V" means the Federal Operating Permit Program, as described in State Regulations 9 VAC 5-80-50 *et. seq.*
11. "State Regulations" means the Commonwealth of Virginia State Air Pollution Control Board Regulations for the Control and Abatement of Air Pollution.

SECTION C: Findings of Fact and Conclusions of Law

1. MeadWestvaco owns and operates an extruded carbon production facility in Covington, Virginia.
2. In preparation for the issuance of a Title V permit, DEQ issued an amended permit for the extruded carbon production facility. The amended permit, dated June 26, 2002, supersedes the previous permit, dated April 23, 1997. Nitrogen oxide emission limits for B and C kilns, which were not included in the 1997 permit, were added to the 2002 amended permit. The emission limits were based on EPA emission factors for nitrogen oxide generated by the combustion of natural gas.
3. Condition 17 of the 2002 amended permit, limits nitrogen oxide emissions (as NO₂) from the operation of B kiln and C kiln to 0.89 pounds per hour. Condition 24 of the 2002 amended permit requires stack testing on B kiln and C kiln to demonstrate compliance with the emission limits described in Condition 17.
4. On February 18, 2003, Meadwestvaco performed stack testing on B kiln and C kiln.
5. On March 19, 2003, MeadWestvaco received the February 18, 2003 stack testing report and provided immediate verbal notification to the DEQ that the hourly nitrogen oxide emission limit had been exceeded during the stack test

6. On March 21, 2003, a copy of the emissions test report was received at the DEQ WCRO. The report documents that nitrogen oxide emissions (as NO₂) from B kiln and C kiln averaged 2.0 pounds per hour.
7. In a letter dated April 2, 2003, MeadWestvaco submitted additional information to the DEQ on the results of its investigation regarding the nitrogen oxide emissions from B and C kilns.
8. On April 3, 2003, DEQ issued a Notice of Violation to MeadWestvaco for exceeding the permitted hourly emission limit for B kiln and C kiln.
9. In a letter dated April 7, 2003, MeadWestvaco submitted to the DEQ its proposed plan and schedule for addressing the nitrogen oxide emissions from B and C kilns.

SECTION D: Agreement and Order

Accordingly, the Board, by virtue of the authority granted it in Va. Code §10.1-1316(C), orders MeadWestvaco, and MeadWestvaco agrees, to perform the actions described in Appendix A of this Order. In addition, the Board orders MeadWestvaco, and MeadWestvaco voluntarily agrees, to pay a civil charge of \$3,025.61 within 30 days of the effective date of the Order in settlement of the violations cited in this Order. Payment shall be made by check payable to the "Treasurer of Virginia", delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 10150
Richmond, Virginia 23240

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of MeadWestvaco, for good cause shown by MeadWestvaco, or on its own motion after notice and opportunity to be heard.
2. This Order only addresses and resolves those violations specifically identified herein, including those matters addressed in the Notice of Violation issued to MeadWestvaco by DEQ on April 3, 2003. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility as may be authorized by law; or (3) taking subsequent

action to enforce the Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.

3. For purposes of this Order and subsequent actions with respect to this Order, MeadWestvaco admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. MeadWestvaco consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. MeadWestvaco declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 9-6.14:1 *et seq.*, and the Air Pollution Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any findings of fact or conclusions of law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.
6. Failure by MeadWestvaco to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. MeadWestvaco shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. MeadWestvaco shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. MeadWestvaco shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and

- d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure by MeadWestvaco to so notify the Regional Director within 24 hours of learning of any condition above, which MeadWestvaco intends to assert will result in the impossibility of compliance, shall constitute a waiver of any claim of inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and MeadWestvaco. Notwithstanding the foregoing, MeadWestvaco agrees to be bound by any compliance date, which precedes the effective date of this Order.
12. This Order shall continue in effect until the Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to MeadWestvaco. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve MeadWestvaco from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.
13. By its signature below, MeadWestvaco voluntarily agrees to the issuance of this Order.

And it is so ORDERED this day of MAY 6, 2003.

Steven A. Dietrich for
Robert G. Burnley, Director
Department of Environmental Quality

MeadWestvaco voluntarily agrees to the issuance of this Order.

By: J. D. Nelson
Date: 5/11/03

Commonwealth of Virginia

~~City~~/County of Alleghany

The foregoing document was signed and acknowledged before me this 1st day of May, 2003, by J. D. Nelson, who is
(name)

Operations Mgr. of MeadWestvaco, on behalf of the Corporation.
(title)

Linda C. Stull

Notary Public

My commission expires: 6-30-04

APPENDIX A

MeadWestvaco shall:

1. Perform stack emissions testing on B kiln and C kiln for nitrogen oxides (as NO₂) and carbon monoxide. The testing shall be performed while the facility is running inorganic binder, and shall be repeated when running organic binder.
2. Submit copies of the test report to the DEQ WCRO, along with a revised permit application for the carbon extruder plant.
3. Complete these requirements by July 31, 2003.

In addition, MeadWestvaco and the DEQ agree to the following:

1. During the term of this Order, MeadWestvaco may continue to operate B- and C-kilns using either inorganic binders or organic binders. The DEQ agrees not to take additional enforcement action regarding nitrogen oxide emissions from B- and C-Kilns.
2. In recognition that the carbon monoxide emission limits added to the June 26, 2002 amended permit for B- and C- kilns were based on natural gas emission factors, MeadWestvaco will also measure carbon monoxide emissions from B- and C-kilns during use of both the inorganic and organic binder. Results will be reported to the DEQ and the DEQ agrees not to take additional enforcement action in the event that the original emission factors were in error.